

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: StaceyAnn McFarlane-Ross	Team: Squad #15	CCRB Case #: 201705002	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/03/2017 12:00 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 73	18 Mo. SOL 12/3/2018	EO SOL 12/3/2018	
Date/Time CV Reported Thu, 06/15/2017 7:17 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/20/2017 12:11 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			Unknown
2. POM Daniel Berardi	07962	948658	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Berardi	Abuse: Police Officer Daniel Berardi questioned § 87(2)(b)	
B.POM Daniel Berardi	Abuse: Police Officer Daniel Berardi questioned § 87(2)(b)	
C.POM Daniel Berardi	Abuse: Police officer Daniel Berardi questioned § 87(2)(b)	
D.POM Daniel Berardi	Abuse: Police Officer Daniel Berardi threatened to arrest § 87(2)(b)	
E. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	

Case Summary

On June 15, 2017, § 87(2)(b) filed this complaint on behalf of her son § 87(2)(b) via telephone with the NYPD Internal Affairs Bureau. § 87(2)(b) did not witness the incident, and was informed by § 87(2)(b) of what took place.

Between 12:00 p.m. and 1:00 p.m., on June 3, 2017, § 87(2)(b) and an unidentified individual by the name § 87(2)(b) were sitting in front of § 87(2)(b) in Brooklyn when he observed an unmarked car stopped at the location. PO Daniel Berardi, PO Jason Smith from the 73rd Precinct and an unidentified male officer, PO3, exited the car and walked approximately 20 feet over to where § 87(2)(b) and the individual were. PO Berardi asked § 87(2)(b) and the individual, “Where are the guns? What are we doing today?” (**Allegations A, B, and C: Abuse of Authority,** § 87(2)(g) § 87(2)(b) § 87(2)(b) explained PO Berardi addressed him by the nickname “§ 87(2)(b)” as he spoke to him. Approximately two minutes later, PO Berardi asked § 87(2)(b) for his identification and he handed PO Berardi his identification (**Subsumed into Allegation A: Abuse of Authority,** § 87(2)(g) § 87(2)(b). While PO Berardi had § 87(2)(b)’s identification card, he informed § 87(2)(b) that his identification card was not real. During that time, PO3 took § 87(2)(b)’s identification card and went to the police car. PO Berardi informed § 87(2)(b) that he would arrest him if he saw him in the Brownsville area of Brooklyn (**Allegation D: Abuse of Authority,** § 87(2)(g) § 87(2)(b). Approximately two to three minutes later, PO3 returned with § 87(2)(b)’s identification card and also reiterated the same threat of arrest as PO Berardi (**Allegation E: Abuse of Authority,** § 87(2)(g) § 87(2)(b)). Approximately 10 minutes later, PO Berardi, PO Smith and PO3 left the location without arresting § 87(2)(b) or the individual or issuing either of them a summons.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Daniel Berardi questioned § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Daniel Berardi questioned § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Daniel Berardi questioned

§ 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Daniel Berardi threatened to arrest

§ 87(2)(b)

Allegation (E) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

§ 87(2)(b) (BR 01) testified PO Berardi, PO Smith, both whom he recognized from prior interactions and arrests and an unidentified officer, described as a black male, approximately 5’6” tall, medium build, black hair, wearing plainclothes were all driving in an unmarked police car when they stopped approximately 20 feet away from where § 87(2)(b) and the individual were sitting. PO Berardi, PO Smith and the unidentified officer all walked over to § 87(2)(b) and the individual and PO Berardi immediately asked the men, “Where are the guns? What are we doing today?” § 87(2)(b) explained during the entire interaction, PO Berardi addressed him by the nickname “§ 87(2)(b)” whom he explained was another individual that was currently on parole and lived in the Brownsville area of Brooklyn. PO Berardi continued

speaking to him by stating, “§ 87(2)(b) what are you doing in Brownsville? You know you don’t belong in Brownsville. I’m a tell your parole officer the next time I see you in Brownsville.” § 87(2)(b) explained although he informed PO Berardi that his name was not § 87(2)(b) and that he lives and was paroled in Brownsville, PO Berardi did not believe him and still addressed him as § 87(2)(b). Approximately two minutes later, PO Berardi asked § 87(2)(b) for his identification in which § 87(2)(b) gave it to him. PO Berardi looked at § 87(2)(b) s identification card told him that it was not a real identification. After that, PO3 took his identification to the police car. While § 87(2)(b) waited for his identification, PO Berardi informed § 87(2)(b) that he would arrest if he saw § 87(2)(b) in the Brownsville area of Brooklyn. Approximately three minutes later, PO3 returned with § 87(2)(b) s identification and issued the same threat as PO Berardi.

During § 87(2)(b) s (BR 03) unverified telephone statement, an unidentified officer, PO1, described as approximately 6’0” tall, approximately 37-38 years old wearing plainclothes, an unidentified officer, PO2, approximately 6’0” tall, 32 years old and wearing plainclothes along with two additional unidentified officers approached the location and spoke with § 87(2)(b) by addressing him by the nickname “§ 87(2)(b) § 87(2)(b) explained § 87(2)(b) voluntarily provided his identification to the officers to prove his name was not “§ 87(2)(b) § 87(2)(b) explained PO1 told § 87(2)(b) that he would be arrested if he saw him in the Brownsville area of Brooklyn and PO2 nodded to PO1’s statement. While speaking to § 87(2)(b) to obtain more information about the third individual identified in § 87(2)(b) s testimony, § 87(2)(b) did not know who the individual was and explained it was only he and § 87(2)(b) that was present.

PO Berardi (BR 04) testified that he did not remember the day. He was shown § 87(2)(b) s CCRB photograph and he recognized § 87(2)(b) from being around the Brownsville area. On June 3, 2017, he was assigned as the assistant Field Intelligence Officer (FIO) within the 73rd Precinct, in which he gathers field intelligence through observations and other means and debriefs other officers. On this day, he did not remember interacting with § 87(2)(b) or remember leaving the stationhouse. Although he is familiar with § 87(2)(b) he has not had any personal interactions with him. PO Berardi explained he was familiar with the individual with the nickname, “§ 87(2)(b) however, he did not remember interacting with that individual. PO Berardi’s memo book for June 3, 2017, (BR 02) only noted he worked from 10:30 a.m. to 7:05 p.m. without any further notations.

PO Smith (BR 05) testified on that day of the incident he was on his regular day off. His memo book (BR 06) noted he was off duty between May 27, 2017 to June 4, 2017, as he was on his regular day off and was on vacation.

Based on the command’s Tour 2 Roll Call (BR 13), Daily Vehicle Assignment sheet (BR 07), on June 3, 2017, PO Berardi is assigned as an assistant Field Intelligence Officer (FIO) and PO Smith was not listed on this Roll Call. Furthermore, the only three officers assigned to the same vehicle (RMP 4272) were assigned to Conditions Unit. These officers were eliminated as potential subject officers as the trio assigned were two white males and a black male.

According to the Event Summary for Tour 2 within the confines of the 73rd Precinct (BR 11), there was no Event Information report associated with this incident.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties of (BR 14, 15, 18).
- PO Daniel Berardi has been a member of service for seven years and has been a subject in four CCRB complaints and six allegations, none of which were substantiated. PO § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 12, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 10).
- § 87(2)(b)
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 09).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 17).

Squad No.: 15

Investigator:	_____	<u>Inv. McFarlane-Ross</u>	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

